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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/669,463 | 09/25/2003 | Terry J. Logan | NVI 0016 PA | 4567 |

23368 7590 08/30/2007

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| EXAMINER |
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MARCANTONI, PAUL D

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| ART UNIT | PAPER NUMBER |
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1755

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| MAIL DATE | DELIVERY MODE |
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08/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/669,463 | Applicant(s) LOGAN ET AL. | |
| | Examiner Paul Marcantoni | Art Unit 1755 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/9/07 response to restriction.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 12-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Restriction:

Applicants elected Group I, claims 1-11 in their 7/9/07 response to the restriction with traverse and indicated that there was no serious burden on the examiner to also work on the other non-elected Groups. The examiner disagrees for the proper reasons set forth in the previous restriction. The applicants have not traversed the reasons for restriction. The applicants also request rejoinder for all three Groups from the restriction. The examiner respectfully denies this request because rejoinder requires the selection of the "product" claims or group. Applicants, however, elected Group I to the method and not Group II. Group III is unrelated with respect to rejoinder so this request could not have been granted for Group III (Group I and II could have been rejoined but applicants elected Group I). However, applicants may consider stating for the record that Groups I and II are obvious variants and at least these two Groups from the restriction would be searched together. Applicants doing this would mean that if the examiner finds either one of the Groups the claims to the other group is also rejected because of this admission. Nevertheless, this restriction is thus FINAL.

35 USC 102/103:

Claims 1-11 are rejected as anticipated under 35 USC 102(b and e), or in the alternative, as obvious over Long et al. '771 B2, Rechmeier et al. '121, Watson et al. '630, Pennell '285, Elsner '735, Clark '902, or JP 52071522 (Onodera et al.-abstract).

All of the above cited references teach adding the applicants raw material components (organic waste and mineral by product) as a fuel for making cement clinker thus anticipating applicants' claims (see respective claims and abstracts). Even if not anticipated, overlapping ranges of amounts would have been prima facie obvious to one of ordinary skill in the art.

The applicants further use of premium or high grade fuels such as coal, coke, oil, gas, and hazardous waste would have been obvious to one of ordinary skill in the art because it is conventional in the art to use these fuels for cement kilns (See MPEP 2144.03 for Conventional/Common Knowledge in the Art (also Official Notice)).

It is further noted that applicants claim a specific solids content for the organic waste/mineral by product. It is the examiner's position that this solids content is within the range of the teaching of the prior art. Further, the applicants even admit in paragraph [0029] that cement clinker manufacture is from a wet process or a dry process and that the wet process is more energy intensive and thus more expensive because the water must be evaporated out of the slurry residue. It would have been obvious for one of ordinary skill in the art to eliminate the water content as much as possible to reduce the energy requirements of the kiln and save money for the cement manufacturing process.

35 USC 103:

Claims 1-11 are rejected under 35 USC 103(a) as unpatentable over Long et al. '771 B2, Rechmeier et al. '121, Watson et al. '630, Pennell '285, Elsner '735, or JP 52071522 (Onodera et al.-abstract) alone or in view of Clark '902.

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All of the primary references teach applicants claimed process including mixing organic waste and mineral by product as fuel for cement clinker manufacture in a kiln. The references do not all explicitly teach the conventional fuel known in the art for cement kilns. However, Clark '902 teaches in column 1, lines 50-53 that the use of coal, coke, oil, and gas are commonly utilized fuels for cement kilns and thus the use of these alone or in combination with organic waste additive fuels (certainly a low grade fuel) would have been obvious to one of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Marcantoni whose telephone number is 571-272-1373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Marcantoni
Primary Examiner
Art Unit 1755